

## AMENDMENTS SUBMITTED

THE BIRTH DEFECTS PREVENTION  
ACT OF 1997

## BOND AMENDMENT NO. 371

Mr. BOND proposed an amendment to the bill (S. 419) to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Birth Defects Prevention Act of 1997".

(b) **FINDINGS.**—Congress makes the following findings:

(1) Birth defects are the leading cause of infant mortality, directly responsible for one out of every five infant deaths.

(2) Thousands of the 150,000 infants born with a serious birth defect annually face a lifetime of chronic disability and illness.

(3) Birth defects threaten the lives of infants of all racial and ethnic backgrounds. However, some conditions pose excess risks for certain populations. For example, compared to all infants born in the United States, Hispanic-American infants are more likely to be born with anencephaly spina bifida and other neural tube defects and African-American infants are more likely to be born with sickle-cell anemia.

(4) Birth defects can be caused by exposure to environmental hazards, adverse health conditions during pregnancy, or genetic mutations. Prevention efforts are slowed by lack of information about the number and causes of birth defects. Outbreaks of birth defects may go undetected because surveillance and research efforts are underdeveloped and poorly coordinated.

(5) Public awareness strategies, such as programs using folic acid vitamin supplements to prevent spina bifida and alcohol avoidance programs to prevent Fetal Alcohol Syndrome, are essential to prevent the heartache and costs associated with birth defects.

**SEC. 2. PROGRAMS REGARDING BIRTH DEFECTS.**

Section 317C of the Public Health Service Act (42 U.S.C. 247b-4) is amended to read as follows:

**"PROGRAMS REGARDING BIRTH DEFECTS**

"SEC. 317C. (a) **IN GENERAL.**—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out programs—

"(1) to collect, analyze, and make available data on birth defects (in a manner that facilitates compliance with subsection (d)(2)), including data on the causes of such defects and on the incidence and prevalence of such defects;

"(2) to operate at least 5 regional centers for the conduct of applied epidemiological research on the prevention of such defects; and

"(3) to provide information and education to the public on the prevention of such defects.

"(b) **ADDITIONAL PROVISIONS REGARDING COLLECTION OF DATA.**—

"(1) **IN GENERAL.**—In carrying out subsection (a)(1), the Secretary—

"(A) shall collect and analyze data by gender and by racial and ethnic group, including Hispanics, non-Hispanic whites, Blacks, Native Americans, Asian Americans, and Pacific Islanders;

"(B) shall collect data under subparagraph (A) from birth certificates, death certifi-

cates, hospital records, and such other sources as the Secretary determines to be appropriate; and

"(C) shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects, and to make the data available.

"(2) **NATIONAL CLEARINGHOUSE.**—In carrying out subsection (a)(1), the Secretary shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

"(c) **GRANTS AND CONTRACTS.**—

"(1) **IN GENERAL.**—In carrying out subsection (a), the Secretary may make grants to and enter into contracts with public and nonprofit private entities.

"(2) **SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.**—

"(A) Upon the request of a recipient of an award of a grant or contract under paragraph (1), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

"(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(3) **APPLICATION FOR AWARD.**—The Secretary may make an award of a grant or contract under paragraph (1) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the award is to be made.

"(d) **BIENNIAL REPORT.**—Not later than February 1 of fiscal year 1998 and of every second such year thereafter, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report that, with respect to the preceding 2 fiscal years—

"(1) contains information regarding the incidence and prevalence of birth defects and the extent to which birth defects have contributed to the incidence and prevalence of infant mortality;

"(2) contains information under paragraph (1) that is specific to various racial and ethnic groups (including Hispanics, non-Hispanic whites, Blacks, Native Americans, and Asian Americans);

"(3) contains an assessment of the extent to which various approaches of preventing birth defects have been effective;

"(4) describes the activities carried out under this section; and

"(5) contains any recommendations of the Secretary regarding this section.

"(e) **APPLICABILITY OF PRIVACY LAWS.**—The provisions of this section shall be subject to the requirements of section 552a of title 5, United States Code. All Federal laws relating to the privacy of information shall apply to the data and information that is collected under this section.

"(f) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$30,000,000 for fiscal year 1998, \$40,000,000 for

fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 and 2001."

THE REIGLE-NEAL CLARIFICATION  
ACT OF 1997SARBANES (AND D'AMATO)  
AMENDMENT NO. 372

Mr. SANTORUM (for Mr. SARBANES for himself and Mr. D'AMATO) proposed an amendment to the bill (H.R. 1306) to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank; as follows:

On page 1, beginning on line 4, strike "Clarification" and insert "Amendments".

On page 1, line 7, insert "(a) ACTIVITIES OF BRANCHES OF OUT-OF-STATE BANKS.—" BEFORE "SUBSECTION".

On page 2, strike line 22 and all that follows through page 3, line 2 and insert the following:

"(3) **SAVINGS PROVISION.**—No provision of this subsection shall be construed as affecting the applicability of—

"(A) any State law of any home State under subsection (b), (c), or (d) of section 44; or

"(B) Federal law to State banks and State bank branches in the home State or the host State.

On page 3, after line 5, add the following:

(b) **LAW APPLICABLE TO INTERSTATE BRANCHING OPERATIONS.**—Section 5155(f)(1) of the Revised Statutes (12 U.S.C. 36(f)(1)) is amended by adding at the end the following:

"(C) **REVIEW AND REPORT ON ACTIONS BY COMPTROLLER.**—The Comptroller of the Currency shall conduct an annual review of the actions it has taken with regard to the applicability of State law to national banks (or their branches) during the preceding year, and shall include in its annual report required under section 333 of the Revised Statutes (12 U.S.C. 14) the results of the review and the reasons for each such action. The first such review and report after the date of enactment of this subparagraph shall encompass all such actions taken on or after January 1, 1992."

Amend the title to read as follows: "An Act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes."

## FEINGOLD AMENDMENT NO. 373

Mr. SANTORUM (for Mr. FEINGOLD) proposed an amendment to the bill, H.R. 1306, supra; as follows:

At the appropriate place, insert the following: "Nothing in this act alters the right of states under section 525 of Public Law 96-221."

THE AMERICAN SAMOA  
DEVELOPMENT ACT OF 1997

## AKAKA AMENDMENT NO. 374

Mr. SANTORUM (for Mr. AKAKA) proposed an amendment to the bill (S. 210) to amend the Organic Act of Guam, the Revised Organic Act of the Virgin Islands, and the Compact of Free Association Act, and for other purposes; as follows:

On page 25 of the Committee reported bill, beginning on line 7, delete  
 "identifying such property."

"(4)"

and insert in lieu thereof:

"identifying such property;

"(4) To real property described in the Guam Excess Lands Act (P.L. 103-339, 108 Stat. 3116) which shall be disposed of in accordance with such Act; or

"(5)"

# THE PRODUCT LIABILITY REFORM ACT OF 1997, BIOMATERIALS ACCESS ASSURANCE ACT OF 1997

## LAUTENBERG (AND OTHERS) AMENDMENT NO. 375

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. LAUTENBERG (for himself, Mr. HARKIN, Mr. DURBIN, and Mr. WYDEN) submitted an amendment intended to be proposed by them to the bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

On page 9, line 14, strike "; or" and insert a semicolon.

On page 9, line 16, strike the period and insert "; or".

On page 9, between lines 16 and 17, insert the following:

(iii) any tobacco product or component of a tobacco product.

On page 11, between lines 14 and 15, insert the following:

(16) TOBACCO PRODUCT.—

(A) IN GENERAL.—The term "tobacco product" means—

(i) cigarettes;

(ii) little cigars;

(iii) cigars as defined in section 5702 of the Internal Revenue Code of 1986;

(iv) pipe tobacco;

(v) loose rolling tobacco and papers used to contain loose rolling tobacco;

(vi) products referred to as spit tobacco; and

(vii) any other form of tobacco intended for human consumption.

(B) CIGARETTE DEFINED.—For purposes of this paragraph, the term "cigarette" means—

(i) any roll of tobacco wrapped in paper or in any substance not containing tobacco that is to be burned;

(ii) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by consumers as a cigarette described in clause (i);

(iii) little cigars that are any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco that is a cigarette within the meaning of clause (i)), with respect to which 1,000 units have a weight of not to exceed 3 pounds; and

(iv) loose rolling tobacco and papers or tubes used to contain that tobacco.

Mr. LAUTENBERG. Mr. President, I rise to discuss an amendment I am submitting today to the product liability bill to protect the Nation's public health from the dangers of tobacco. I am joined in this effort by my colleagues Senator DURBIN, Senator HARKIN and Senator WYDEN.

Without this amendment, the product liability bill provides the tobacco

industry with a backdoor escape hatch from the settlement negotiations in which they are currently engaged. Without this amendment, the tobacco industry will not have to make concessions to the public health community that could save millions of American lives.

Mr. President, 36 States have now gone to court to recover the millions of dollars in Medicaid and other health care costs that were a direct result of the tobacco industry's deceitful and deadly practices. Thousands of Americans who have been grievously injured by tobacco products, and the loved ones of those who have been killed by tobacco, are seeking compensation from the tobacco industry for their lethal and addictive products. Currently, a bipartisan group of State attorneys' general are involved in sensitive negotiations with the tobacco industry concerning compensation for the illness and death caused by its products. Whether one supports the concept of a settlement or not, the fact that the tobacco industry has come to the table is an amazing development.

They have come to the table because they realize that this President and enough of us in Congress will not allow them to continue seducing and poisoning our children without an appropriate response. They also know that they will be subject to increasing civil liability in the court system. I applaud the attorneys' general for bringing such strong cases against them, that they realized it was time to sit down and possibly release our Nation's children from their stranglehold.

Mr. President, right now, one of the major sticking points in the talks between the attorneys' general and the Big Tobacco is the issue of restrictions on product liability suits that will be brought against the tobacco industry in the future. The industry has asked for a cap on punitive damages, and it wants to eliminate joint and several liability in tobacco cases. The attorneys' general are currently trying to work this issue out with the tobacco companies.

Mr. President, 17 of these attorneys' general have signed on in support of our effort to remove tobacco from the scope of the product liability bill. I ask unanimous consent that letters signed by the attorneys' general endorsing this effort be printed in the RECORD. As time goes on, I expect additional pledges of support from more attorneys' general.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,

June 12, 1997.

DEAR MEMBERS OF THE U.S. SENATE: We, the undersigned state Attorneys General, ask you to support the Lautenberg Tobacco Amendment to S. 648, the Product Liability Bill. While we do not in this letter take a position on the overall product liability bill, we support the exclusion of the tobacco industry litigation and tobacco from the scope of the bill.

Frankly, we are asking you not to let the tobacco industry off the hook. If the product liability bill passes without the changes contained in the Lautenberg amendment, the bill could affect the negotiations we are involved in today.

Senator Lautenberg's amendment excludes "tobacco products" from the scope of product liability litigation affected by S. 648. This is the right thing to do. Without the amendment, the tobacco industry will gain substantial protection without conceding anything to the state governments and public health advocates who are now at the negotiating table.

Therefore, we strongly urge you to support the Lautenberg Amendment. We are trying to make historic breakthroughs in these settlement negotiations. It would be a tragedy to take a step backwards.

Sincerely,

TOM MILLER,  
Iowa Attorney General.

WINSTON BRYANT,  
Arkansas Attorney General.

BOB BUTTERWORTH,  
Florida Attorney General.

JEFFREY MODISSETT,  
Indiana Attorney General.

J. JOSEPH CURRAN,  
Maryland Attorney General.

SCOTT HARSHBARGER,  
Massachusetts Attorney General.

FRANK KELLEY,  
Michigan Attorney General.

JOE MAZUREK,  
Montana Attorney General.

HUBERT H. HUMPHREY III,  
Minnesota Attorney General.

PETER VERNIERO,  
New Jersey Attorney General.

TOM UDALL,  
New Mexico Attorney General.

W.A. DREW EDMONDSON,  
Oklahoma Attorney General.

D. MICHAEL FISHER,  
Pennsylvania Attorney General.

JAN GRAHAM,  
Utah Attorney General.

JAMES DOYLE,  
Wisconsin Attorney General.

DON SIEGELMAN,  
Alabama Attorney General.

ATTORNEY GENERAL OF MISSOURI,  
Jefferson City, MO, June 9, 1997.

Sen. FRANK LAUTENBERG,  
Washington, DC.  
Re S. 648

DEAR SENATOR LAUTENBERG: I applaud your efforts to ensure that the tobacco industry is exempted from the coverage of S. 648, the Products Liability Bill. As Missouri's chief law enforcement officer, I have filed suit against a number of manufacturers of cigarettes and other tobacco products. I have been active in the negotiations between the Attorneys General of the suing states and the tobacco industry. The sweeping protections afforded manufacturers in S. 648 must not be extended to the tobacco industry during the pendency of these historic